

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KYLE YOUNG,

Plaintiff,

V.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:22-cv-00161-CDB (SS)

ORDER ON STIPULATION FOR AWARD
OF ATTORNEY FEES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT, 28
U.S.C. § 2412(d)

(Doc. 19)

Pending before the Court is the stipulated request of Plaintiff Kyle Young (“Plaintiff”) for the award of attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d), in the amount of \$5,450.00 to counsel for Plaintiff, Francesco Benavides.¹ (Doc. 19).

The parties agree that an award of attorney's fees to counsel for Plaintiff should be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the Commissioner shall cause the payment of fees, expenses, and costs to be made directly to Plaintiff's counsel, Francesco Benavides. *Id.* at 2.

On December 20, 2024, the Court granted the Plaintiff's motion for summary judgment and remanded the case pursuant to sentence four of 42 U.S.C. § 405(g) to the Commissioner for

¹ Both parties have consented to the jurisdiction of a U.S. magistrate judge for all proceedings in this action, in accordance with 28 U.S.C. § 636(c)(1). (Doc. 11).

1 further proceedings. (Doc. 17). Judgment was entered the same day. (Doc. 18). On January 10,
 2 2025, Plaintiff filed the pending stipulation for attorney fees as a prevailing party. (Doc. 19); *see*
 3 *Shalala v. Schaefer*, 509 U.S. 292, 300-02 (1993) (concluding that a party who wins a sentence-
 4 four remand order under 42 U.S.C. § 405(g) is a prevailing party). The initial 60-day deadline
 5 for filing of appeals (Fed. R. App. P. 4) falls on February 18, 2025. As such, Plaintiff's filing is
 6 timely. *Van v. Barnhart*, 483 F.3d 600, 607 (9th Cir. 2007). The Commissioner does not oppose
 7 the requested relief. (Doc. 19).

8 The EAJA provides for an award of attorney fees to private litigants who both prevail in
 9 civil actions (other than tort) against the United States and timely file a petition for fees. 28
 10 U.S.C. § 2412(d)(1)(A). Under the EAJA, a court shall award attorney fees to the prevailing
 11 party unless it finds the government's position was "substantially justified or that special
 12 circumstances make such an award unjust." *Id.* Here, the government did not show its position
 13 was substantially justified and the Court finds there are not special circumstances that would
 14 make an award unjust. Moreover, the government does not oppose Plaintiff's stipulated request.
 15 *See Sanchez v. Berryhill*, No. 1:16-cv-01081-SKO, 2018 WL 509817, at *2 (E.D. Cal. Jan. 23,
 16 2018) (finding position of the government was not substantially justified in view of the
 17 Commissioner's assent to remand); *Knyazhina v. Colvin*, No. 2:12-cv-2726 DAD, 2014 WL
 18 5324302, at *1 (E.D. Cal. Oct. 17, 2014) (same).

19 Plaintiff requests an award of \$5,450.00 in EAJA fees. (Doc. 19). The Ninth Circuit
 20 maintains a list of the statutory maximum hourly rates authorized by the EAJA, adjusted for
 21 increases in the cost of living, on its website. *See Thangaraja v. Gonzales*, 428 F.3d 870, 876-
 22 77 (9th Cir. 2005). Even assuming Plaintiff's counsel seeks the median of the published
 23 maximum rate associated with the years (2022 and 2023) during which he engaged in services in
 24 this case (which the Court computes as \$239.78),² the requested award would amount to
 25 approximately 22 hours of attorney time (not accounting for any paralegal time expended). The
 26 Court finds this reasonable and commensurate with the number of hours an attorney would need

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 28 ² *Statutory Maximum Rates Under the Equal Access to Justice*, available at
 https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/ (last visited January 14,
 2025), archived at https://perma.cc/5P4T-9U4E.

1 to have spent reviewing the certified administrative record in this case (364 pages; Doc. 13) and
2 preparing a 12-page opening brief and four-page reply brief in support of a motion for summary
3 judgment that raises two issues for the Court's review. (Doc. 14). With respect to the results
4 obtained, Plaintiff's counsel obtained a favorable judgment remanding the case for further
5 proceedings. (Doc. 17 at 24).

6 EAJA fees, expenses, and costs are subject to any offsets allowed under the Treasury Offset
7 Program (“TOP”), as discussed in *Astrue v. Ratliff*, 560 U.S. 586 (2010). If the Commissioner
8 determines upon effectuation of this order that Plaintiff’s EAJA fees are not subject to any offset
9 allowed under the TOP, the fees shall be delivered or otherwise transmitted to Plaintiff’s counsel.

10 Accordingly, it is HEREBY ORDERED:

11 1. Plaintiff's stipulated request for attorney's fees pursuant to the EAJA (Doc. 19) is
12 GRANTED; and
13 2. The Commissioner is directed to pay to Plaintiff as the prevailing party attorney's fees in
14 the amount of \$5,450.00, pursuant to the terms set forth in the parties' stipulation. (Doc.
15 19). Fees shall be made payable to Plaintiff, but if the Department of the Treasury
16 determines that Plaintiff does not owe a federal debt, then the government shall cause the
17 payment of fees, expenses, and costs to be made directly to Plaintiff's counsel, as set forth
18 in the stipulation.

19 IT IS SO ORDERED.

Dated: **January 14, 2025**

Chris D. Brown
UNITED STATES MAGISTRATE JUDGE